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FRANK PALLONE, JR.

6TH DISTRICT, NEW JERSEY

## Congress of the United States

### House of Representatives

Washington, DC 20515-3006

May 20, 2010

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The Honorable Julius Genachowski, Chairman  
Federal Communications Commission  
445 12th Street, SW  
Washington DC 20554

0803

Dear Chairman Genachowski:

I am writing to follow up on our previous correspondence regarding an application filed with the Commission by PMCM TV to move a commercial television broadcast station to New Jersey.

On June 15, 2009, PMCM TV filed notifications with the FCC advising that it intends to move a commercial VHF station to the state of New Jersey, pursuant to Section 331 of the Communications Act, as amended. Up to this point, the FCC Media Bureau's actions have run counter to those taken by the full Commission the one time Section 331 was invoked in the past. As of today, the FCC has not approved the reallocation, and I understand that PMCM has sought judicial relief.

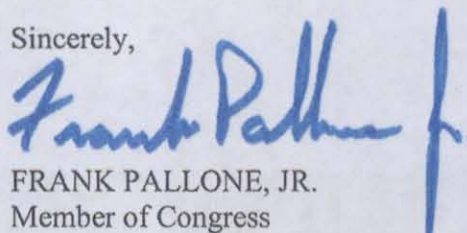
I believe Congress intended for Section 331 to provide a remedy for states without a VHF license. As you know, as of June 13, 2009, New Jersey was left without a commercial VHF channel as a result of the Digital Television Transition. Therefore, PMCM application should have been granted, especially since no interference problems were apparent.

I understand that since this issue was raised with your Commission, a December 2009 allotment was opened for a VHF channel in Atlantic City, New Jersey. While I do not oppose these efforts, which would provide additional service to the southern portion of our state, this action does not maximize viewer benefit. The Atlantic City allotment would provide service to about 3.5 million New Jersey residents, while PMCM's Middletown Township channel, which is located in my district, specified in its notification that it would offer service to over 6.4 million.

During a January conference call with your staff there was reluctance to discuss the specifics of the PMCM notification. While not wishing to violate any prohibition of *ex parte* communications, I believe a meeting of all of the parties would be the prudent approach to clear away the confusion surrounding this matter and move toward the resolution of it.

Thank you for your consideration.

Sincerely,



FRANK PALLONE, JR.  
Member of Congress



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

September 1, 2010

OFFICE OF  
THE CHAIRMAN

The Honorable Frank Pallone, Jr.  
U.S. House of Representatives  
237 Cannon House Office Building  
Washington, D.C. 20515

Dear Congressman Pallone:

Thank you for your follow-up letter concerning PMCM TV, LLC's request to move a commercial VHF television broadcast station from Nevada to New Jersey, and the Commission's proceeding to allot a VHF channel to Atlantic City, New Jersey. The PMCM proceeding presented some significant issues, and I understand your request for further information.

I have asked Commission staff to contact your office and arrange to meet with you or your staff at your convenience. As you note, however, since both the PMCM request to reallocate channel 3 to Middletown Township, and the allocation rulemaking concerning Atlantic City are restricted proceedings pursuant to the Commission's *ex parte* rules, the parties to the proceedings must be provided an opportunity to participate in this, or any meeting where the merits of the proceedings will be discussed.

The Commission's Media Bureau denied PMCM's request pursuant to Section 331 of the Communications Act to reallocate KVVN(TV), channel 3, from Ely, Nevada, to Middletown Township, New Jersey, on December 18, 2009. The Bureau found that the PMCM request did not comport with the Bureau's interpretation that Section 331 applies only to the reallocation of a channel from one community in a viewing area to another community in the same viewing area. Subsequently, PMCM filed a Petition for a Writ of Mandamus with the U.S. Court of Appeals for the D.C. Circuit, which the court denied on May 12, 2010. PMCM also filed an Application for Review on January 19, 2010, requesting that the full Commission review the Bureau's decision. The staff is evaluating PMCM's Application for Review and will prepare a recommendation for the Commission's consideration.

It appears that your correspondence was not served on the parties to the proceedings as required by the Commission's *ex parte* rules. After consultation with the Commission's Office of the General Counsel, the Media Bureau has provided copies of your letter to the parties and made it part of the record. I appreciate your ongoing interest in bringing a new television station to New Jersey. Please let me know if I can be of any further assistance.

Sincerely,



Julius Genachowski